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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,280	08/22/2003	Jeffrey J. Bogatay JR.	CTTE 2 13500	9339
27885	7590	08/08/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			BROWN, DREW J	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,280

Applicant(s)

BOGATAY ET AL.

Examiner

Drew J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/22/02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1 and 14 recite the limitation "the vehicle engine" in line 4 of each claim. There is insufficient antecedent basis for this limitation in the claim. Claims 1 and 14 recite that the first and second support bars are mounted at "lower ends on an upper edge" of the primary rails and the front rail. It is unclear to the examiner where exactly the "lower end on an upper edge" is located. Therefore, the phrase renders the claims indefinite. It appears that the lower ends of the support bars are mounted to an upper edge of the side rails; however, this phrase could also be interpreted to refer to a lower end of an upper edge of the side rails. Clarification is required.
4. Similarly, claims 10 and 20 recite that the first and second motor mount members are connected at "lower ends on an inside edge" of the primary side rails. It is unclear to the examiner where exactly the "lower ends on an inside edge" is located. Therefore, the phrase renders the claims indefinite.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Weigel et al. (U.S. Pat. No. 3,099,326). Weigel et al. discloses a metal frame comprising primary and secondary side rails 1 spaced from each other and joined at opposite ends by a front rail 57 and a rear plate 2. Weigel et al. discloses a plurality of mounting components 11, 12, & 13 to mount the vehicle engine on the frame adjacent the front rail. Weigel et al. discloses that the first and second support bars 6 are mounted at lower ends on an upper edge of the primary side rails and front rail and extend over and forwardly of the front rail and frame, and that the first and second support bars at upper ends are connected to a head tube 7 to mount a front wheel assembly on the frame. Finally, Weigel et al. also discloses that the head tube includes a passage therethrough for receiving a fork tube 15 of the front wheel assembly.

7. Claims 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Weldy (U.S. Pat. No. 4,353,567). Weldy discloses a steering assembly for a three-wheel vehicle having a front steering bar 28 to connect to the front wheel assembly. The steering assembly includes a rear mounting plate 50, located rearwardly of the front wheel assembly, which is pivotal relative to the frame. There are a pair of connecting rods (22 and the element between 40 & 50) of different lengths pivotally connected 40 between the steering bar and the rear mounting plate whereby the mounting plate is pivotal about an axis laterally offset from the front wheel assembly. The connecting rods are positioned in a first plane and the primary side rails 24 are positioned in a second plane, where the first and second planes are parallel but not coplanar. Each of the connecting

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rods includes a front end and a rear end, where the front ends of the connecting rods define a first distance (between 46 and 40) and the rear ends define a second distance (between 40 and the pin-shaped element that pivotally connects 50 and the element between 40 and 50), where the first distance is greater than the second distance. Weldy also discloses that the angle between the first connecting rod (element between 40 and 50) and the steering bar 28 is greater than the angle between the second connecting rod 22 and the steering bar 28.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weldy in view of Weigel et al. Weldy discloses a steering assembly for a three-wheel vehicle having a front steering bar 28 to connect to the front wheel assembly. The steering assembly includes a rear mounting plate 50, located rearwardly of the front wheel assembly, which is pivotal relative to the frame. There are a pair of connecting rods (22 and the element between 40 & 50) of different lengths pivotally connected 40 between the steering bar and the rear mounting plate whereby the mounting plate is pivotal about an axis laterally offset from the front wheel assembly. The connecting rods are positioned in a first plane and the primary side rails 24 are positioned in a second plane, where the first and second planes are parallel but not coplanar. Each of the connecting rods includes a front end and a rear end, where the front ends of the

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connecting rods define a first distance (between 46 and 40) and the rear ends define a second distance (between 40 and the pin-shaped element that pivotally connects 50 and the element between 40 and 50), where the first distance is greater than the second distance. Weldy also discloses that the angle between the first connecting rod (element between 40 and 50) and the steering bar 28 is greater than the angle between the second connecting rod 22 and the steering bar 28. Weldy, however, does not disclose a frame comprising primary and secondary side rails spaced from each other and joined at opposite ends by a front rail and a rear plate. Weldy does not disclose a plurality of mounting components to mount the vehicle engine on the frame adjacent the front rail. Weldy also does not disclose that the first and second support bars are mounted at lower ends on an upper edge of the primary side rails and front rail and extend over and forwardly of the front rail and frame, or that the first and second support bars at upper ends are connected to a head tube to mount a front wheel assembly on the frame. Weigel et al. does disclose a frame comprising primary and secondary side rails spaced from each other and joined at opposite ends by a front rail 57 and a rear plate 2. Weigel et al. discloses a plurality of mounting components 11, 12, & 13 to mount the vehicle engine on the frame adjacent the front rail. Finally, Weigel et al. discloses that the first and second support bars 6 are mounted at lower ends on an upper edge of the primary side rails and front rail and extend over and forwardly of the front rail and frame, and that the first and second support bars at upper ends are connected to a head tube 7 to mount a front wheel assembly on the frame. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weldy with the teachings of Weigel et al. to have an open box frame with primary and secondary rails

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spaced from each other and joined by a front rail and rear plate in order to provide the basic body of the vehicle of which other elements such as the engine can be mounted. It would have also been obvious to modify Weldy to have a plurality of mounting components to mount the vehicle engine adjacent the front rail so the engine can be secured to the frame and also to achieve a desirable center of gravity. It would have been obvious to modify Weldy to have first and second support bars extending over and forwardly of the front rail and frame in order to provide room for a front wheel. Finally it would have been obvious to modify Weldy to connect the first and second support bars at upper ends to a head tube in order to provide a single element that can securely attach the front wheel assembly to the frame of the three-wheel vehicle. Weigel et al. further discloses that the head tube includes a passage therethrough for receiving a fork tube 15 of the front wheel assembly.

Regarding claims 5 and 6, it would have been obvious matter of design choice to modify Weigel et al. by having the head tube tilt rearward from about 30°-40°, or more specifically 33°, from a horizontal axis, since the applicant has not disclosed that having the head tube tilt rearward at this specific angle or range of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with the head tube tilting at any of these angles (In re Aller et al., 105 U.S.P.Q.233).

Regarding claims 10-12, it would have been obvious matter of design choice to modify Weigel et al. by having the motor mount members extend inwardly from about 50°-60°, or more specifically 53°, from a vertical axis, since the applicant has not disclosed that having the motor mounts extending inwardly at this specific angle or range

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of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with motor mounts tilting at any of these angles, such as to compensate for a different sized motor (In re Aller et al., 105 U.S.P.Q.233).

10. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weldy in view of Weigel et al., and further in view of Fekete et al. (U.S. Pat. No. 1,399,201).

Weldy, as modified by Weigel et al., discloses the claimed three-wheel vehicle as discussed above, but does not disclose that the frame includes a cross member mounted between a pair of angled side rails. Fekete et al., however, does disclose a cross member 7 mounted between a pair of angled side rails 3 & 4. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the combination of Weldy and Weigel et al. with the teachings of Fekete et al. to have a cross member in order to further strengthen the frame to protect the occupant during a collision and to also provide a support for a seat for the occupant. Fekete et al. also discloses angled side rail extending upwardly and rearwardly (area between 7 & 8) with respect to the primary side rails, where the angled side rails connect the primary side rails to the secondary side rails. Finally, Fekete et al. discloses that the secondary side rails are positioned in a third plane and the primary side rails in a second plane, where the planes are parallel but not coplanar to each other. For example, the plane containing cross member 8 is parallel to the plane containing cross member 6, but they are not coplanar.

11. Claims 15, 16, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weigel et al. It would have been obvious matter of design choice to modify Weigel et al. by having the head tube tilt rearward from about 30°-40°, or more

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specifically 33°, from a horizontal axis, since the applicant has not disclosed that having the head tube tilt rearward at this specific angle or range of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with the head tube tilting at any of these angles (In re Aller et al., 105 U.S.P.Q.233).

Regarding claims 20-22, it would have been obvious matter of design choice to modify Weigel et al. by having the motor mount members extend inwardly from about 50°-60°, or more specifically 53°, from a vertical axis, since the applicant has not disclosed that having the motor mounts extending inwardly at this specific angle or range of angles solves any stated problem or is for any purpose. It appears that the three-wheel vehicle would perform equally well with motor mounts tilting at any of these angles, such as to compensate for a different sized motor (In re Aller et al., 105 U.S.P.Q.233).

12. Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weigel et al. in view of Fekete et al. Weigel et al. discloses the claimed three-wheel vehicle as discussed above, but does not disclose that the frame includes a cross member mounted between a pair of angled side rails, or that the secondary side rails are positioned in a third plane parallel, but not coplanar to the primary side rails that are positioned in a second plane. Fekete et al., however, does disclose a cross member 7 mounted between a pair of angled side rails 3 & 4. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weigel et al. with the teachings of Fekete et al. to have a cross member in order to further strengthen the frame to protect the occupant during a collision and to also provide a support for a seat for the occupant. Fekete et al. discloses that the secondary side rails are positioned in a

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third plane and the primary side rails in a second plane, where the planes are parallel but not coplanar to each other. For example, the plane containing cross member 8 is parallel to the plane containing cross member 6, but they are not coplanar. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weigel et al. with the teachings of by Fekete et al. to have the secondary and primary side rails be parallel but not coplanar to each other in order to accommodate for a larger wheels in the rear of the vehicle. They should be parallel so the seat is parallel to the primary side rails and also to the ground. This is more comfortable for the occupant and also safer because it provides a clear view of the direction of travel. Fekete et al. also discloses angled side rail extending upwardly and rearwardly (area between 7 & 8) with respect to the primary side rails, where the angled side rails connect the primary side rails to the secondary side rails.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Renfro et al. (U.S. Pat. No. 6,709,013 B2) discloses a similar steering arrangement for a four-wheel vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 7 a.m. to 4 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J Brown
Examiner
Art Unit 3616

DJB



8/3/05
DAVID R. DUNN
PRIMARY EXAMINER